IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION Nos : 2844 AND 3482 OF 2004

WRIT PETITION No.2844 of 2004

Between:

1 The Government of Andhra Pradesh represented by its Principal Secretary, Home Department, Secretariat, Hyderabad-500 022.
2 The Director General of Police, Andhra Pradesh, Hyderabad-500 004.
3 The Commissioner of Police, Vijayawada City, Krishna District.

..... PETITIONERS

AND

Sri S.Rambabu, S/o Peeraiah,
Ex.P.C.No.1669, r/o Vijayawada, Krishna District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction more particularly one in nature of writ of certiorari calling for the records connected with order dt.26-9-2003 in O.A.No.8511/2000 on the file of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad and quash the same as illegal and erroneous

WRIT PETITION NO : 3482 of 2004

Between:

1 The Government of Andhra Pradesh rep by Principal Secretary, Home Department, Secretariat, Hyderabad-500 022
2 The Director General of Police, Andhra Pradesh, Hyderabad
3 The Commissioner of Police, Vijayawada City, Krishna District

..... PETITIONERS

AND

Sri. A. Manikyalarao S/o Narayanarao
Ex.P.C.No.1351, R/o Vijayawada, Krishna District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or direction more particularly one in the nature of Writ of Certiorari calling for the records connected with order dt 26-9-2003 in O.A. 8240/2000 on the file of the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad and quash the same as illegal and erroneous

Counsel for the Petitioners: GP FOR SERVICES-I

in both writ petitions.

Counsel for the Respondent No.: M/S B.KAVITA YADAV

in both writ petitions

The Court made the following:

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COMMON ORDER: (per the Hon'ble Sri Justice B.Seshasayana Reddy)

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1 . Both these Writ petitions arise out of the common order dated 06-09-2003 in O.A.Nos.8240 and 8511 of 2000 along with M A.No.2096 of 2001, on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad.

2. The respondents in these two writ petitions were faced with disciplinary action for their slackness and negligence in discharge of their guard duty on 14.03.1997 at the prisoners cell, University General Hospital, Vijayawada, which enabled a notorious and dangerous sick prisoner Mahaboob Jani to escape. In the departmental enquiry, they were found guilty and the disciplinary authority imposed the punishment of dismissal from service. After exhausting the departmental remedies, A.Manikyala Rao, filed O.A.8240 of 2000 and where as S.Rambabu filed O.A.8511 of 2000 questioning their dismissal from service.

3. The learned Tribunal, after going through the entire material on record, found that the punishment of removal is shockingly disproportionate and therefore, interfered with the quantum of punishment and substituted it with the punishment of stoppage of two increments with cumulative effect in respect of the applicant in O.A.No.8511 of 2000, and three increments with cumulative effect in respect of the applicant in O.A.No.8240 of 2000. Assailing the said common order, the department has filed these two writ petitions. W.P.2844 of 2004 is filed against the order passed in O.A.8571 of 2000 and whereas W.P.3482 of 2004 is filed against the order passed in O.A.8240 of 2000

4. The learned Government Pleader appearing for the petitioners contends that the Tribunal, having found that the respondents in the respective writ petitions guilty for the misconduct ought not to have interfered with the punishment and therefore, both the writ petitions are liable to be allowed by setting aside the order passed in O.A.Nos.8240 and 8511 of 2000.

5. The learned Counsel appearing for the respondents in the respective writ petitions contends that the Tribunal on a thorough consideration of the material on record came to the conclusion that the punishment of dismissal is shockingly disproportionate and therefore, substituted the punishment with that of withholding of increments. In view of the facts and circumstances of the case, the order passed by the Tribunal is legal and proper, and is not required to be interfered with.

6. As can be seen from the records, there were three Constables and one Head Constable on guard duty at the prisoners cell, University General Hospital, Vijayawada, as on 14-03-1997. The Head Constable, who was in charge of the guard, died pending the disciplinary enquiry and therefore the proceedings against

him stood abated. Whereas one constable, who happened to be a probationer, approached the Tribunal by filing O.A.3476 of 2002 and the Tribunal allowed the O.A and set aside the punishment imposed on him. The Enquiry Officer found the applicants negligent in discharging their duties, because they did not open fire when they noticed the prisoner escaping from sick prisoners cell. Keeping this aspect in view, the Tribunal recorded a finding that the punishment of dismissal is shockingly disproportionate.

7. On a thorough consideration of the material brought on record and on hearing the learned Counsel for both the parties, we endorse the view taken by the learned Tribunal. We do not see any ground to interfere with the order of the learned Tribunal.

8. In the result, both the writ petitions are hereby dismissed. No costs.

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Date: 16-07-2004 G.BIKSHAPATHY, J.

Jsu/Js

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B.SESHASAYANA REDDY, J.

To

1 The Government of Andhra Pradesh rep by Principal Secretary, Home Department, Secretariat, Hyderabad-500 022

2 The Director General of Police, Andhra Pradesh, Hyderabad
3 The Commissioner of Police, Vijayawada City, Krishna District

4. Two CCs to the Government Pleader for Services-I, High Court Buildings, Hyderabad (OUT)

5. Two CD copies.